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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,256	03/27/2001	Forrest B. Phillips	22845.01400	2099
36807	7590	12/08/2005		
DONALD DIAMOND 2180 JEFFERSON STREET, 2ND FLOOR NAPA, CA 94559-1200			EXAMINER MATHEW, FENN C	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/819,256

Applicant(s)

PHILLIPS, FORREST B.

Examiner

Fenn C. Mathew

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-8,10,17 and 88 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8,10,17 and 88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Bertrand (U.S. 5,387,158). Bertrand discloses a recreational slide having a base and top surface to facilitate sliding thereon, the top surface being characterized with low friction (as best understood) sheeting layer which enables the user to traverse the slide when it is wet or dry, and means for (69) introducing water to the top surface of the slide. Referring to claim 2, Bertrand teaches a base as well as the top surface of the slide being inclined. Referring to claim 17, Bertrand teaches a hose (69) which serves as a pump to pump out water onto the top surface of the slide.

3. Claims 1, 3, 5, 6-8, are rejected under 35 U.S.C. 102(b) as being anticipated by Butsook (U.S. 6,062,983). Referring to claim 1, Butsook teaches a slide (12) having a base and a top surface, the top surface being characterized by a low friction (durable plastic) which enables the user to traverse both when the top surface is wet and dry (one can walk on the slide when it is dry if they so choose), and means for introducing water (26). Referring to claims 3 and 5, Butsook teaches the slide can be inflated, thereby providing an inherent bouncy surface. Referring to claims 6-7, Butsook teaches in column 4, lines 12-15 means for maintaining inflation of the slide, and therefore

allows the slide to be deflated. Referring to claim 8, Butsook discloses a durable plastic layer. Referring to claim 88, use of the device in sub-zero temperatures would result in the introduction of snow/ice to the surface of the slide.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Butsook. Limitations drawn to the specific material used are considered a matter of obvious design choice. Note that Butsook teaches using durable plastic, and nylon, and polyester resins are durable plastics.

***Response to Arguments***

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Examiner respectfully points out that the subject matter of claim 1 is not supported by the specification of 09/344,302 as the application does not discuss a slide with means for introducing water. Therefore the effective date is the filing date of the CIP. (See MPEP 2133.01). Applicant's claims remain broad in nature. The phrase 'enables the user to traverse there on both when said top surface is wet and dry' is broad. So long as the prior art is capable, the limitations will be met. In the case of Butsook, Examiner has attempted to parlay the broadness of the claims.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3764

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*fc*

fc

December 5, 2005



MICHAEL A. BROWN  
PRIMARY EXAMINER